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13 **UNITED STATES DISTRICT COURT**
14 **WESTERN DISTRICT OF WASHINGTON**
15 **AT SEATTLE**
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18 CRAIGSLIST, INC., a Delaware
19 corporation,

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21 Plaintiff,

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23 v.

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25 GREENLUCKY BIZ, LLC, a Washington
26 corporation; SEUNG SHIN also known as
27 MARCELA SHIN, an individual; KETA
28 SHA, an individual; Does 1 through 25,
29 inclusive, individuals and/or business
30 entities of unknown nature,

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32 Defendants.
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Case No. 13-2080

**COMPLAINT FOR VIOLATION OF
15 U.S.C. § 7701, et seq, CONTROLLING
THE ASSAULT OF NON-SOLICITED
PORNOGRAPHY AND MARKETING
ACT OF 2003 [“CAN-SPAM”]; BREACH
OF CONTRACT; AND UNFAIR
COMPETITION**

JURY DEMAND

1 For its complaint, craigslist, Inc. (“craigslist”) alleges as follows:
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4 INTRODUCTION

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6 1. craigslist operates the world’s largest classified advertisement site, with over 60
7 million American monthly visitors posting tens of millions of classified ads.
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10 2. Due to this popularity the defendant spammers have targeted and sought to
11 illegally exploit craigslist and its users for personal profit.
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14 3. This action arises from the spammers’ abuse of craigslist and deceitful
15 exploitation of craigslist’s users through a fraudulent and unlawful spamming scheme.
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18 4. Specifically, the spammers are engaging in a campaign of initiating unsolicited
19 commercial electronic mail messages to craigslist users. The spammers go to great lengths to get
20 these spam messages through craigslist’s email relay system, which employs anonymization and
21 spam filtering.
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25 5. In their messages, the spammers solicit users’ personal email accounts, so that
26 they may bypass craigslist’s email relay system and subject craigslist users to a barrage of
27 commercial and sexually explicit email messages. These messages contain links to external
28 websites that monetize traffic referred by the spammers’ deceit.
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32 6. The spammers’ unlawful actions are causing irreparable harm to craigslist and to
33 craigslist’s users. Indeed, craigslist users have complained to craigslist about the spammers’
34 unlawful actions.
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37 JURISDICTION AND VENUE

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39 7. This Court has federal question jurisdiction over this action under 28 U.S.C.
40 § 1331, because this action alleges violations of the CAN-SPAM Act of 2003 (15 U.S.C. § 7701
41 et seq.). The Court has supplemental jurisdiction over the remaining claims under 29 U.S.C.
42 § 1367.
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9. Venue is proper in this District under 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

10. craigslist, Inc. is a Delaware corporation, with its principal place of business in San Francisco, California.

11. Defendant GreenLucky Biz, LLC is a Washington corporation with its principal place of business in Puyallup, Washington.

12. Defendant Seung Shin, also known as Marcela Shin, is an individual believed to be residing or working at 9017 138th St E., Puyallup, WA 98373-5597.

13. Defendant Keta Sha is an individual believed to be residing or working at B.34 Dev Nagar Tank Road, Jaipur, Rajasthan 302018, India.

14. Does 1-25 are persons or entities responsible in whole or in part for the wrongdoing alleged herein. craigslist is informed and believes, and based thereon, alleges that each of the Doe Defendants participated in, ratified, endorsed, or was otherwise involved in the acts complained of, and that they have liability for such acts. craigslist will amend this Complaint if and when the identities of such persons or entities and/or the scope of their actions become known.

15. GreenLucky Biz, LLC, Seung Shin, Keta Sha, the Doe Defendants, and their agents, affiliates, and other co-conspirators are collectively referred to herein as the “Spammers” or “Defendants.”

BACKGROUND

A. craigslist's Website and Its Users

16. Founded in San Francisco, California in 1995 by Craig Newmark, craigslist began as an e-mail list for friends and co-workers to share information about events in and around the San Francisco Bay Area. It grew over time in size and scope, and became the world's largest online forum for local classified advertising.

17. Today craigslist ranks among the top Internet companies for web traffic with hundreds of billions of page views served annually. More than 60 million Americans visit craigslist each month, and they collectively post several hundred million classified ads each year.

18. craigslist enables authorized users to post localized classified advertising on its website.

19. This classified ad service is organized first by geographic area, and then by category of product or service within that geographic area. The various categories provided by craigslist include everything from job postings, buying and selling of used goods, housing opportunities (sale, buy, rent, etc.), personals ads for friendship and romance, and a wealth of community-centric information and advice. It is literally a "one stop shop" for every sort of local classified listing and associated communication that a user may want or need.

20. Users respond to classified advertisements by clicking on a "Reply" button, which allows replies to be sent using user's "Default Email," a "Webmail account," or by manually pasting a unique craigslist email address into the individual's email client.

21. craigslist's email system includes a two-way email relay that translates users' actual email addresses into anonymized craigslist email addresses.

22. While anonymizing the email address, the two-way email relay system leaves the sender's name, contained in the "from field," in its original form.

23. The message is relayed via craigslist's two-way email relay system, which includes spam filters, and is delivered to the original poster's email inbox.

24. The responder normally doesn't see the poster's true email address because it is anonymized by craigslist's two-way email relay system. Likewise, the poster doesn't see the responder's true email address because that, too, is anonymized.

B. Defendants' Wrongful Actions

25. The Spammers have embarked on a campaign of sending many thousands of unsolicited and abusive spam emails to craigslist users seeking to earn compensation by driving online traffic to sexually explicit websites.

26. First, the Spammers send unauthorized and fraudulent emails posing as regular craigslist users in reply to craigslist user postings using craigslist's two-way email relay.

27. In these initial emails, the Spammers hide their real names in the "from" field. For example, in the spam email pasted below, the Spammer wrote "craigslist reply a625" in the from field in lieu of his or her true name:

From: craigslist reply a625 <a625a9bfacad3c41bb28e680f7de83f8@reply.craigslist.org>
To: gkb8z-4149316250@sale.craigslist.org
Sent: Thursday, October 24, 2013 3:16 PM
Subject: >>> THINK CHRISTMAS*** F.P. Little People barn with extras - \$25 (Mt.Comfort / east Indy)

28. The initial emails contain misleading subject lines, indicating the responder is interested in the user's item for sale, or whatever the subject matter of the post is.

29. Rather than substantively replying to the post, however, the Spammers provide an alternate email address and request the poster contact them directly at that email address, so as to bypass craigslist's anonymized email relay:

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2 **From:** craigslist reply a625 <a625a9bfacad3c41bb28e680f7de83f8@reply.craigslist.org>
3 **To:** gkb8z-4149316250@sale.craigslist.org
4 **Sent:** Thursday, October 24, 2013 3:16 PM
5 **Subject:** >>> THINK CHRISTMAS*** F.P. Little People barn with extras - \$25 (Mt.Comfort / east Indy)
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9 Is it possible you email me on here rather? X5n5kj@hotmail.com
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13 30. If the original poster replies to the alternate email address, the email is sent
14 directly from the user's personal email account rather than through craigslist's email relay
15 system.
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19 31. Through this scheme, the Spammers deceive craigslist users into revealing their
20 personal email address information, so that the Spammers can then evade craigslist's two-way
21 email relay system and its accompanying spam filters.
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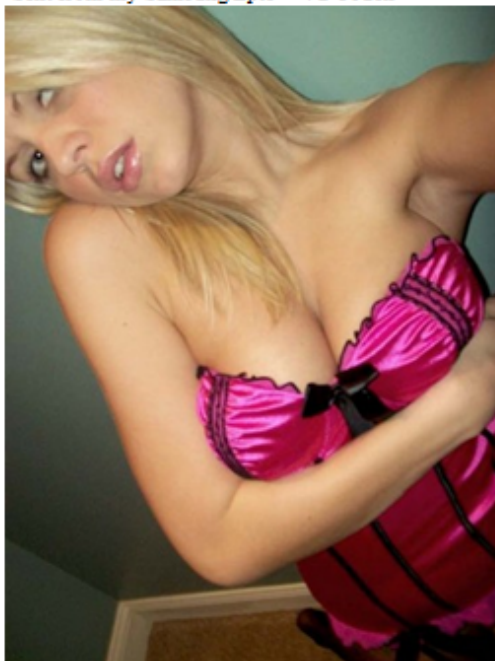
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25 32. Subsequently, the Spammers send barrages of explicitly sexual spam messages,
26 completely unrelated to the craigslist users' original postings, to craigslist users' personal email
27 addresses as harvested by their scheme.
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33. One example out of the many thousands of spam messages the Spammers have sent to craigslist users demonstrates that these spam messages (a) lure users into providing personally identifying information, (b) include a link to external websites, and (c) contain sexually explicit images:

Super curious about you and your ad. I need to know more and was curious as to if you could call/text me with where you live? Please get my cell phone # on my personal page, you have to sign up first but don't worry there's no charge. This way I am safe guarding my personal information, I have money set to go. I gotta ask you something important over the phone and verify this is not a scam. Thanks!

[www.kissok.org \[apps.facebook.com\]](http://www.kissok.org/apps.facebook.com)

-Sent from my Samsung Epic™ 4G Touch



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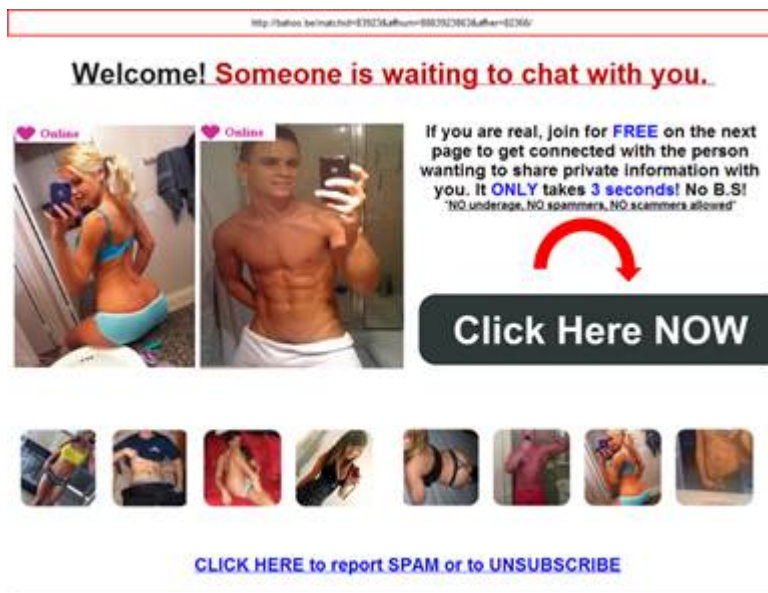
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34. The links in the spam messages vary in appearance, but the Spammers generally pose as a real person wanting to converse with the craigslist user. Those users that unwittingly click on the links find themselves on a landing page such as this:



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35. The landing page contains further links leading to an external sexually explicit website such as the following:



36. The “person” who wanted to converse with the craigslist user does not actually exist—instead the Spammers are misleading them to a third party site.

37. The Spammers also falsely registered as craigslist users and affirmatively posted fake personals advertisements on craigslist in order to test their scheme.

38. The Spammers perpetrated their fraudulent spam scheme with the intent of deceiving craigslist users into visiting third party websites so that the Spammers would be compensated as the traffic referral source.

39. The Spammers use computer software and other automated devices and programs to initiate or assist them in initiating spam emails to craigslist users through craigslist.org.

40. The Spammers messages seek to mislead as many craigslist users as possible by bypassing craigslist’s email relay system in order to subject them to a barrage of unsolicited and

highly misleading spam. This greatly detracts from the craigslist user experience and, as a result, causes significant harm to craigslist's reputation and goodwill.

41. craigslist has suffered economic damages attributable to efforts and resources devoted to combat the Spammers' activities, to minimize the disruptive impact of their actions on craigslist and its users, and to locate and identify the Spammers. craigslist's economic damages continue to mount as it is forced to implement new methods and techniques in an effort to identify and block the Spammers' ever-changing tactics.

42. craigslist will continue to suffer immediate and irreparable harm, damage, and loss for as long as the Defendants continue their illegal actions.

43. The Spammers' actions are knowing, intentional, willful, malicious and fraudulent and at all relevant times, the Defendants were aware that their illegal acts would harm craigslist and its computer network and servers.

CLAIMS FOR RELIEF

COUNT I – CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING (“CAN-SPAM”), 15 U.S.C. § 7701, *et seq.*

44. Plaintiff craigslist realleges and incorporates by reference, as if fully set forth herein, the allegations in all the preceding paragraphs.

45. Defendants' electronic messages are “commercial electronic mail messages,” as defined in 15 U.S.C. § 7702(2)(A), because their primary purpose is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

46. Defendants have and continue to “initiate” commercial electronic mail messages, as defined in 15 U.S.C. 7702(9), because they are originating or transmitting such messages or procuring the origination or transmission of such messages, as defined in 15 U.S.C. 7702(12) and 15 U.S.C. 7704(g)(2).

1 47. craigslist is an “Internet access service,” as defined in 15 U.S.C. § 7702(11),
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3 because it provides a service that enables users to access content, information, electronic mail, or
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5 other services offered over the Internet, and may also include access to proprietary content,
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7 information, and other services as part of a package of services offered to consumers.

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9 48. craigslist’s website and computers are “protected computer[s],” as defined in 15
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11 U.S.C. § 7702(13), because they are used in interstate or foreign commerce or communication.

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13 49. Defendants have and continue to initiate transmissions of commercial electronic
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15 mail messages, through craigslist’s protected computers and to craigslist users, which contain or
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17 are accompanied by information headers that are materially false or materially misleading, in
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19 violation of 15 U.S.C. 7704(a)(1).

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21 50. Defendants are engaging in a pattern or practice of initiating transmissions,
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23 through craigslist’s protected computers to craigslist users, of commercial electronic mail
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25 messages with actual knowledge or knowledge fairly implied on the basis of objective
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27 circumstances, that the messages’ subject headings are likely to mislead a recipient, acting
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29 reasonably under the circumstances, about a material fact regarding the contents or subject
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31 matter of the message in violation of 15 U.S.C. 7704(a)(2).

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33 51. Defendants are engaging in a pattern or practice of initiating transmission,
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35 through craigslist’s protected computers to craigslist users, of commercial electronic mail
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37 messages that do not contain a functioning return electronic mail address or other Internet-based
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39 opt-out mechanism, clearly and conspicuously displayed, in violation of 15 U.S.C. § 7704(a)(3).

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41 52. Defendants are engaging in a pattern or practice of initiating transmission of
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43 commercial electronic mail messages, through craigslist’s protected computers to craigslist users,
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45 that do not contain (1) clear and conspicuous identification that the messages were
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47 advertisements or solicitations, (2) clear and conspicuous notice of the opportunity to decline to
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49 receive further commercial emails from the sender, and (3) a valid physical postal address of the
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51 sender in violation of 15 U.S.C. § 7704(a)(5).

1 53. Defendants are accessing craigslist's protected computers and computer network
2 without authorization in violation of 15 U.S.C. § 7704(b)(3) and knowingly relaying or
3 retransmitting commercial electronic mail messages from craigslist's protected computers and
4 computer network in violation of 15 U.S.C. § 7704(a).
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8 54. Defendants are adversely affecting craigslist by causing it to expend time and
9 resources to investigate and prevent the unauthorized access and abuse of its computer network,
10 and to protect its users against unsolicited commercial electronic messages. Defendants' actions
11 are also deterring craigslist's existing users and potential new users from using craigslist, and
12 damaging craigslist's good will and reputation with its customers and the community at large.
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15 55. craigslist is a provider of Internet access services adversely affected by
16 Defendants' violations of 15 U.S.C. 7704(a)(1); 15 U.S.C. 7704(a)(2), (3), and (5); and
17 7704(b)(3). Accordingly, craigslist brings this civil action under 15 U.S.C. 7706(g).
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20 56. craigslist is entitled to an injunction against further violations by the Defendants
21 as provided by 15 U.S.C. § 7706(g)(1)(A). craigslist will continue to suffer immediate and
22 irreparable harm if Defendants' conduct is not enjoined. craigslist has no adequate remedy at
23 law.
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26 57. As provided in 15 U.S.C. § 7706(g)(1)(B), craigslist is entitled to the greater of its
27 actual monetary loss or statutory damages as calculated in 15 U.S.C. § 7706(g)(3)(A) in an
28 amount to be proven at trial.
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31 58. craigslist is entitled to aggravated damages pursuant to 15 U.S.C. § 7706(g)(3)(C)
32 in an amount equal to three times the amount otherwise available because Defendants committed
33 their violations willfully and knowingly and because Defendants' unlawful activity included one
34 or more of the aggravated violations set forth in 15 U.S.C. § 7704(b).
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37 59. craigslist is entitled to reasonable costs, including reasonable attorneys' fees as
38 provided by 15 U.S.C. § 7706(g)(4).
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COUNT II – BREACH OF CONTRACT

60. Plaintiff craigslist realleges and incorporates by reference, as if fully set forth herein, the allegations in all the preceding paragraphs.

61. Use of the craigslist website and use of craigslist services are governed by and subject to the TOU. (See Exhibit 1.)

62. At all relevant times, the main craigslist homepage and the homepage for each geographic region have provided links to the TOU that are prominently displayed.

63. craigslist users are presented with the TOU and must affirmatively accept the TOU to register for a craigslist account to post ads.

64. craigslist users are presented with the TOU and must affirmatively accept the TOU before they can post an ad without an account.

65. Defendants affirmatively accepted and agreed to be bound by the TOU by creating accounts and/or posting ads to craigslist.

66. Defendants regularly accessed the craigslist website and affirmatively accepted and agreed to the TOU to, among other things test and design their spamming scheme.

67. Defendants regularly accessed the craigslist website with knowledge of the TOU and all of its prohibitions. Despite their knowledge of the TOU and their prohibitions, Defendants regularly accessed and continue to access the craigslist website to, among other things, design, develop, test, and operate their spamming scheme.

68. Defendants also regularly accessed the craigslist website with knowledge of the TOU and, thereby assented to the TOU. Nonetheless, Defendants responded to craigslist postings with spam emails in violation of the TOU.

69. The TOU are binding on Defendants.

70. Defendants' actions, as described above, have willfully, repeatedly and systematically breached the TOU.

1 71. craigslist has performed all conditions, covenants, and promises required of it in
2 accordance with the TOU.
3

4 72. Defendants' conduct has damaged craigslist, and caused and continues to cause
5 irreparable and incalculable harm and injury to craigslist.
6

7 73. craigslist is entitled to injunctive relief, compensatory damages, liquidated
8 damages under the TOU, attorneys' fees, costs and/or other equitable relief.
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10 **COUNT III – UNFAIR COMPETITION**

11 74. Plaintiff craigslist realleges and incorporates by reference, as if fully set forth
12 herein, the allegations in all the preceding paragraphs.
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14 75. By the acts described above, Defendants have engaged in unlawful and unfair
15 business practices and have performed unfair, unlawful, and fraudulent acts in violation of
16 Washington Consumer Protection Act, Revised Code of Washington 19.86 et seq., causing injury
17 to craigslist and its business and property.
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19 76. Additionally, Defendants' activities complained of herein constitute common law
20 unfair competition.
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22 77. Defendants' acts and practices occurred in the conduct of Defendants' trade or
23 commerce.
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25 78. Defendants' acts or practices affected the public interest by subjecting craigslist
26 users to a barrage of sexually explicit spam.
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28 79. Defendants' acts alleged herein have caused monetary damages to craigslist in an
29 amount to be proven at trial, and have caused, and will continue to cause, irreparable injury to
30 craigslist and its business, reputation, and trademarks unless and until Defendants are
31 permanently enjoined.
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33 80. As a direct and proximate result of Defendants' conduct alleged herein,
34 Defendants have been unjustly enriched and should be ordered to disgorge any and all profits
35 earned as a result of such unlawful conduct.
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PRAYER FOR RELIEF

WHEREFORE, plaintiff craigslist prays for the following relief:

1. An order requiring Defendants to account for, hold in constructive trust, pay over to craigslist, and otherwise disgorge all profits derived by Defendants from their unlawful conduct and unjust enrichment, as permitted by law;
2. An award to craigslist of damages, including but not limited to, compensatory, statutory, exemplary, aggravated, and punitive damages, as permitted by law and in such amounts to be proven at trial;
3. An award to craigslist of reasonable costs, including reasonable attorneys' fees;
4. For pre-and post-judgment interest as allowed by law; and
5. For such other relief as the Court may deem just and proper.

DATED: November 18, 2013

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